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11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA

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14 BOARDS OF TRUSTEES FOR THE OPERATING  
ENGINEERS HEALTH AND WELFARE TRUST  
FUND, PENSION TRUST FUND FOR  
OPERATING ENGINEERS, PENSIONED  
OPERATING ENGINEERS HEALTH AND  
WELFARE FUND, OPERATING ENGINEERS  
VACATION AND HOLIDAY TRUST FUND,  
17 NORTHERN CALIFORNIA PREAPPRENTICE,  
APPRENTICE AND JOURNEYMAN  
AFFIRMATIVE ACTION TRAINING FUND,  
OPERATING ENGINEERS CONTRACT  
ADMINISTRATION FUND FOR NORTHERN  
20 CALIFORNIA, OPERATING ENGINEERS  
INDUSTRY STABILIZATION TRUST FUND  
AND OPERATING ENGINEERS MARKET  
PRESERVATION TRUST FUND,

21

Plaintiffs,

22 v.

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MULDER CONSTRUCTION INC., a California  
corporation; and RANDOLPH EUGENE  
MULDER, an Individual,

24

Defendants.

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Plaintiffs and defendants in the above-titled action jointly submit this Request to Continue  
the Case Management Conference, based on the following:

Case No. 3:06cv4894 TEH

**JOINT REQUEST TO CONTINUE  
CASE MANAGEMENT  
CONFERENCE; and ORDER**

DATE: December 10, 2007  
TIME: 1:30 p.m.  
CRTRM: 12, 19th Floor  
JUDGE: Hon. Thelton E. Henderson

1       1. Counsel for Plaintiffs was substituted in this case on or about August 31, 2007. At  
2 that time, Defendant's Case Management Statement recounted the history and status of this case and  
3 stated, "We are currently trying to resolve a question whether a payment was received in November  
4 2005 and a payment plan for satisfying the account and audit debts. In researching that historical  
5 point, an issue has arisen as to an additional component of amounts alleged as past due liquidated  
6 damages and interest for the historical period ending December 2005. Resolving this requires  
7 research into the archives of stored materials for both clients."

8       2. An investigation was therefore requested by Plaintiffs' counsel to their administrator,  
9 to research and determine whether the Trust Funds had received the \$7,000 payment. The  
10 administrator confirmed that no such payment was reflected in the Trust records as having been  
11 made. Defendants were invited to provide evidence of such payment for the requested adjustment,  
12 but none has been provided to date.

13       3. Defendant's counsel has recently been advised by Defendants that there was a prior  
14 settlement agreement between these same parties in another action, which defendants now claim  
15 included some paid amounts which are again claimed due on the audit herein. That agreement will  
16 be provided this week to Plaintiffs counsel, to confirm or adjust amounts claimed as due.

17       4. The parties will then confer as to resolution of this matter by payment or payment  
18 schedule, or by a Motion for Summary Judgment if that should be necessary.

19       5. Defendants' prior Case Management Statement said, and Plaintiffs agree that  
20 "Plaintiffs and Defendants do not see any other matters that may need attention to facilitate a just,  
21 speedy, and economical disposition of this action, which is really quite simple. Indeed, prospects  
22 are good for reaching a settlement on a stipulated judgment....Accordingly, mindful of our mutual  
23 obligations to achieve closure on this case, the parties request the court allow additional time for  
24 this identified task to be accomplished.

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26            /

27            /

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1       6. The parties therefore request that the Case Management Conference be continued for  
2 60 days (taking into account the holiday season) to allow the parties to resolve the questions and the  
3 solution, or, in the unlikely event that resolution is not reached in that time, for the Plaintiffs to file  
4 their Motion for Summary Judgment.

5 | DATED: December 3, 2007

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

/s/ Robert Fried

By: \_\_\_\_\_  
Robert Fried, Attorneys For Defendants

DATED: December 3, 2007

## SALTZMAN & JOHNSON LAW CORPORATION

/s/ Muriel B. Kaplan

By: \_\_\_\_\_  
Muriel B. Kaplan, Attorneys For Plaintiffs

4 | It is so ORDERED:

The Case Management Conference currently scheduled for December 10, 2007 shall be continued to March 3, 2008 at 1:30 p.m., with a Joint Case Management Statement due on February 25, 2008. All previously set deadlines and dates related to this case are continued and will be reset at that Conference.

Date: 12/04/07

